

89160

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE
THE PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff,

RECEIVED
THE RECORDER'S COURT
93 MAR 29 PM 12:29
APPELLATE DIVISION

-vs-

Case No. 92 1856

CARL HUBBARD,
Defendant,

-----/ WAIVER TRIAL

PROCEEDINGS HAD AND TESTIMONY TAKEN in the
above-entitled cause, before the HONORABLE RICHARD P.
HATHAWAY, Judge, Third Judicial Circuit, at 202
Recorder's Court Building, Detroit, Wayne County,
Michigan, on Tuesday, September 1st, 1992.

APPEARANCES:

MR. JAMES GONZALES, Esq.,

On behalf of the People.

MR. RONALD GILES, Esq.,

On behalf of the Defendant.

RECEIVED
FEB 16 1994
COURT OF APPEALS

RECEIVED
MAR 29 1993
THE RECORDER'S COURT
APPELLATE DIVISION
BY *Pf*

T A B L E O F C O N T E N T S

Witness	Page
---------	------

MR. RANDY RICHARDSON

Direct Examination by Mr. Gonzales	3
------------------------------------	---

Cross Examination by Mr. Giles	22
--------------------------------	----

Redirect Examination by Mr. Gonzales	30
--------------------------------------	----

MR. ANDREW SMITH

Direct Examination by Mr. Gonzales	32
------------------------------------	----

Cross Examination by Mr. Giles	41
--------------------------------	----

Redirect Examination by Mr. Gonzales	45
--------------------------------------	----

MS. LUZINDA GROSS

Direct Examination by Mr. Gonzales	46
------------------------------------	----

Cross Examination by Mr. Giles	52
--------------------------------	----

Redirect Examination by Mr. Gonzales	55
--------------------------------------	----

E X H I B I T S

Identification	Marked	Received
----------------	--------	----------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Detroit, Michigan
Tuesday, September 1, 1992.
* * * *

THE CLERK: People of the State of
Michigan versus Carl Hubbard. Case number 92-001 856.
Mr. Hubbard is here today for
purposes of continuation of a waiver trial.

MR. GONZALES: Good morning, Your
Honor.
James Gonzales, again, appearing
for the People.

MR. GILES: May it please the
Court, Ron Giles, appearing on behalf of Carl Hubbard,
who is now entering the Court.

MR. GONZALES: The People call Mr.
Randy Richardson to the stand.

THE COURT: All right. Step up
here, sir, and give your name to the court reporter.

R A N D Y R I C H A R D S O N

called as a witness by the People,
being duly sworn by the Court

1 Clerk,

2 was examined and testified upon his
3 oath, as follows:
4

5 DIRECT EXAMINATION

6
7 BY MR. GONZALES:

8 Q. Sir, would you state your name for the record?

9 A. Randy Richardson.

10 Q. How are you employed?

11 A. Police officer assigned to the crime scenes, as an
12 evidence technician.

13 Q. Were you so employed on the date of January 17th, 1992?

14 A. Yes, sir, I was.

15 Q. Okay.

16 Were you also so employed on the
17 date of February 12, 1992?

18 A. Yes, I was.

19 Q. Taking you back to January 17th 1992, did you have
20 occasion in the evening hours to attend the address of
21 3960 Gray in the City of Detroit?

22 A. I did.

23 Q. What was your understanding of your reason for going to
24 that location?

25 A. I received a police run to go to this address to meet

1 someone from homicide on a fatal shooting.

2 Q. Were you alone or with a partner?

3 A. I had a partner.

4 Q. What was your partner's name?

5 A. Officer Robert Collinash.

6 Q. What time did you arrive at that location?

7 A. Approximately 11:45 at night, p.m..

8 Q. At that time did you have occasion to conduct any
9 activities in terms of evidence gathering and reports?

10 A. Yes, sir, we did.

11 Q. What did you do?

12 A. I made a sketch of the scene.

13 My partner took photos in my
14 presence. We also did some gunshot residue test of
15 some occupants of the dwelling.

16 Q. Which particular dwelling are you referring to?

17 A. 3960 Gray.

18 Q. What are gunshot residue tests?

19 A. They are tests used to determine if a person has
20 handled or fired a gun that has been fired recent.

21 Q. And how many gunshot residue tests did you do that day?

22 A. I did two myself. And my partner did two.

23 Q. Did you observe him do those other two?

24 A. Yes, sir, I did.

25 Q. Do you know the names of the individuals that you did

1 those tests on?

2 A. I would have to refer to my report.

3 Q. And you do -- you have that with you?

4 A. Yes, sir, I do.

5 Q. Would that refresh your recollection?

6 A. Yes, it will.

7 Q. Please do so then?

8 A. I did a gunshot test on the hands of a Peter Baker. I
9 did a gunshot test on the hands of Basil Dennis.

10 My partner did a gunshot test on
11 the hands of DiAnthony Wilcher, and a John Trammel.

12 Q. Okay.

13 And what if anything was done with
14 the results of that or whatever was recovered as a part
15 of those gunshot residue tests?

16 A. The gunshot kits were placed on evidence and turned
17 over to the homicide section.

18 Q. Do you recall the evidence tag numbers?

19 A. Yes, I have them here.

20 Q. Can you indicate them for the record in terms of the
21 individuals who they corresponded to?

22 A. Gunshots residue test for Peter Baker was placed on
23 evidence tag 91 3201. Test for Basil Dennis as placed
24 on evidence tag 91 3202. For DiAnthony Wilcher, 91
25 3203.

1 And for John Trammel on 91 3204.

2 Q. All right.

3 Who did you turn them over to, if
4 you know?

5 A. I turned them over to evidence section technicians;
6 they have an evidence locker.

7 Q. And that was that date?

8 A. Yes.

9 It was approximately 12:30 a.m,
10 would have been the following morning. Once we left
11 that scene we went down town.

12 Q. January 18 of 1992?

13 A. Yes, sir.

14 Q. Okay.

15 Now, you indicated that you had
16 been present when your partner took some photographs,
17 as well as you did a sketch yourself?

18 A. Yes.

19 Q. Okay.

20 Now, I like to call your attention
21 to the date of February 12.

22 Did you again have another occasion
23 to go to the area of 3960 Gray in the City of Detroit?

24 A. Yes, sir, I did.

25 Q. What was your understanding of the reason for your

1 going to that location at that time?

2 A. I had had a conversation with yourself; and you
3 requested me to go out and make an expanded sketch of
4 the scene.

5 And we also took some photographs,
6 my partner and myself.

7 Q. And again who is your partner at this time?

8 A. At that occasion it was officer Kenneth Comp (sp).

9 Q. At that point in time were photographs taken on that
10 date, officer?

11 A. Yes, sir, they were.

12 Q. Were they taken by yourself or your partner?

13 A. My partner took them in my presence.

14 Q. Okay.

15 MR. GONZALES: May I approach the
16 witness?

17 THE COURT: Yes.

18 BY MR. GONZALES:

19 Q. Officer Richardson, I will hand you a series of
20 photographs and ask you if you can identify what they
21 are by the number on the back?

22 And, Your Honor, for the record I
23 believe all photographs have been shown to counsel.

24 And as to the individual sketches,
25 I believe counsel has received copies of them as well.

1 MR. GILES: That's correct, Your
2 Honor.

3 THE COURT: Thank you.

4 BY MR. GONZALES:

5 Q. Here you are, sir.

6 A. People's Exhibit Number 3 is a photograph of the front
7 of 3960a Gray.

8 Q. Does that photograph show the driveway area?

9 A. It shows the front door. You can see very minute
10 corner of the driveway at the right side of the
11 photograph.

12 Q. And is that a fair and accurate photographic
13 reproduction of what you that area reflects on January
14 18, 1992?

15 A. Yes.

16 Q. Okay.

17 I will show you People's Exhibit
18 Number 4?

19 A. Yes, sir.

20 This is an also a picture taken of
21 3960 Gray as well as the dwelling to the south of that
22 address. It shows the driveway on the south side. The
23 picture was taken from across the street.

24 Q. Now, is that a fair an accurate photographic
25 reproduction of that area between the two houses on

1 January 17th, of 92?

2 A. Yes, sir, it is.

3 Q. Is that particular driveway anything of significance or
4 was it to you that night?

5 A. Yes, sir.

6 There was a stain of suspected
7 blood in the snow at the edge of the driveway right by
8 the street.

9 Q. All right.

10 I am showing you People's Proposed
11 Exhibit 25 and ask if you can identify what that is?

12 A. Yes, sir.

13 This is another picture and at a
14 northeast angle showing the front of 3960 Gray, also
15 the driveway going into the street, the front yard.

16 Q. Is that again the same driveway you referred to
17 earlier?

18 A. Yes, sir, it is.

19 Q. Is that a fair an accurate reproduction of what you saw
20 that particular area to look like that night on January
21 17th, sir?

22 A. Yes, sir.

23 Q. I am showing you People's Proposed Exhibit Number 6 and
24 ask if you can identify what that is?

25 A. Yes.

1 There is a picture of the suspected
2 blood in the snow that we observed that night at that
3 driveway.

4 Q. Is that a fair and photographic reproduction of what
5 you remember that stain to look like?

6 A. Yes, sir, it is.

7 Q. All right.

8 I am showing you People's Proposed
9 Exhibit Number 7?

10 A. Yes, sir.

11 This is a picture taken from the
12 street showing the driveway entrance 3960 Gray.

13 You see a spot by the edge of the
14 driveway. That was the area of suspected blood in the
15 snow.

16 Q. Is that a fair and accurate photographic reproduction
17 of that particular angle, driveway?

18 A. Yes, sir, it is.

19 Q. I will show you People's Exhibit Number 8. And ask if
20 you can identify that?

21 A. Yes, sir.

22 This is a picture taken from the
23 east side of Gray pointing west. Showing the opposite
24 side of the street in the -- the upper dwellings on the
25 opposite side.

1 Q. Is that a fair photographic reproduction of what you
2 recollect that scene to look like that night?

3 A. Yes, sir, it is.

4 Q. I am showing you People Proposed Exhibit Number 9. And
5 ask you if you can identify what that is?

6 A. Yes.

7 Again this is another picture
8 showing the opposite side. I believe the address is
9 55, I believe is the last two numbers. But it is the
10 opposite side of the street, 3960 Gray.

11 Q. When you say opposite side of the street, that's what?

12 A. The west side taken from the east side, 3960 side of
13 Gray showing the opposite side of the street.

14 Q. And where are you standing at that time in relation
15 to --

16 where was officer Colleneck (sp) standing in relation
17 to 3960 Gray at the time that photo was taken?

18 A. He would have been standing in the driveway of 3960
19 Gray. It would be east of the sidewalk area.

20 Q. And is that a fair and accurate photographic
21 reproduction of what that scene looked like that night?

22 A. Yes, sir, it is.

23 Q. I am showing you People's Proposed Exhibit Number 10
24 and ask you if you can identify what that is?

25 A. Yes, sir.

1 This is another picture taken from
2 that location from the driveway area of 3960 Gray --
3 correction.

4 Showing the driveway of 3960 Gray
5 and showing the house just to the south. It's taken
6 from across the street on the west side of Gray
7 pointing southeast.

8 Q. Again does that show the driveway where the suspected
9 blood is or a different one?

10 A. That driveway where the suspected blood was at the
11 curb, yes, sir.

12 Q. Is this a fair and accurate photographic reproduction
13 of what you recollect that area to look like?

14 A. Yes, sir, it is.

15 Q. Okay.

16 I am showing you People's Proposed
17 Exhibit Number 11. And ask you if you can identify
18 what that is?

19 A. Yes, sir.

20 This is a picture of the party
21 store at the corner of Mack and Gray and from the north
22 side of Mack at Gray.

23 Q. Was that taken on January 17th or a different time?

24 A. That was taken on February the 12th, I believe it was.

25 Q. On February 12th were you there and present when that

1 photograph was taken?

2 A. Yes, sir, I was.

3 Q. Does that photograph represent a fair and accurate
4 photographic reproduction of what you recollect that
5 store to look like in that area depicted?

6 A. Yes, sir.

7 A. Yes, sir, it does.

8 Q. I will show you People's Proposed Exhibit Number 12 and
9 ask you to identify what that is?

10 A. Yes.

11 This is a picture taken from in
12 front of the party store facing north, showing Gray
13 from the south side of Mack.

14 Q. Does that area also include in the photograph the area
15 where the driveway was, where the suspected blood had
16 been found on January 17th of 1992?

17 A. Yes, it does.

18 Q. Is that a fair an accurate photographic reproduction of
19 what the area looked like on February 12 of 92?

20 A. Yes, it is.

21 Q. I am showing you People's Proposed Exhibit Number 13.
22 And ask if you can identify what that is?

23 A. Yes, sir.

24 This is another picture from in
25 front of the party store, well, actually to the corner

1 partly to the side. It would be the east side of the
2 party store just south of the curb, showing Gray facing
3 north, showing Gray in the area where the scene was.

4 Q. Is that a fair and accurate photographic reproduction
5 of that scene?

6 A. Yes, sir, it is.

7 Q. I am showing you People's Proposed Exhibit Number 14
8 and ask if you can identify what that is?

9 A. Yes, sir.

10 Again there is another slightly
11 different angle from in front of the party store near
12 the curb showing the scene from that location.

13 Q. Again are you looking north up Gray or --

14 A. I didn't see north up Gray. From the south side in
15 front of the party store.

16 Q. Is that a fair and accurate photographic reproduction
17 of that scene?

18 A. Yes, sir, it is.

19 Q. I am showing you People's Proposed Exhibit Number 15.
20 And ask if you can identify what that is?

21 A. Again, this is another angle.

22 This is near the curb facing north
23 showing the scene upgrade. And this is taken from the
24 party store.

25 Q. Is that a fair and accurate photographic reproduction

1 of that view?

2 A. Yes, sir, it is.

3 Q. I am showing you People's Proposed Exhibit Number 16,
4 and ask if you can identify what that is?

5 A. Yes.

6 This was taken from the curb, the
7 street, right at the curb facing north showing the
8 scene again Gray and by the party store, the curb of
9 the party store.

10 Q. When you say the curb, is that the curb on the -- of
11 the party store on Gray?

12 A. Yes, sir.

13 Q. Is that a fair an accurate photographic reproduction of
14 that scene?

15 A. Yes, sir, it is.

16 Q. I am showing you People's Proposed Exhibit Number 17
17 and ask if you can identify what that is?

18 A. Yes, sir.

19 This is also a picture facing
20 north, showing Gray, the scene area.

21 This was taken from the south side
22 of Mack on the opposite corner from the party store.
23 It would be the south east corner of Mack and Gray
24 facing north showing the sidewalk and the -- on the
25 east side of Gray, going north. As well as the houses

1 on the west side.

2 Q. I am showing you -- is that a fair and accurate
3 photographic reproduction of that view?

4 A. Yes, sir, it is.

5 Q. I am showing you People's Proposed Exhibit Number 18.

6 Can you identify that for us?

7 A. Yes, sir.

8 This is a picture taken at the
9 driveway of 3960 Gray facing south towards the party
10 store. It shows the street and the party store.

11 It would be the south west corner
12 of Mack and Gray.

13 Q. Is that looking at the opposite side from those prior
14 photographs?

15 A. Yes, sir.

16 This is from the scene of the
17 driveway, the suspected stain of blood.

18 Q. When you say from the scene, where would the
19 photographer have been standing approximately taking
20 that particular photograph at the time that the
21 photograph was taken?

22 A. He was standing in the driveway at the curb of 3960
23 Gray facing southwest.

24 Q. All right.

25 A. Slightly southwest.

1 Q. Is that a fair and accurate photographic reproduction
2 of that scene from the driveway looking back up south,
3 up Gray toward the party store?

4 A. Yes, sir, it is.

5 Q. Okay.

6 I am showing you People's Proposed
7 Exhibit Number 19 and ask if you can identify what that
8 is, sir?

9 A. Yes, sir.

10 This is another picture facing
11 southwest from the east side of Gray north of Mack.

12 We move further south on Gray and
13 it shows the party store a little closer.

14 Q. Okay.

15 Is that a fair and accurate
16 photographic reproduction of that scene?

17 A. Yes, sir, it is.

18 Q. Now, I am handling you People's Proposed Exhibit Number
19 20 and ask if you can -- if you can identify what that
20 is?

21 A. Yes, sir.

22 This is a sketch I made of the
23 scene on the night, from the night of January 17th,
24 1992, as I observed it showing the scene; the stain of
25 suspected blood and the dwellings on each side.

1 Q. Is that a reasonably fair and accurate sketch of what
2 you recollect this area to be on that night?

3 A. Yes, sir.

4 It is not to scale but it is facts
5 similiar to what I observed.

6 Q. I am showing you People's Exhibit Number 21 and ask if
7 you can describe what is that?

8 A. This is an extended sketch I made of that scene,
9 including dwellings north of and south of, including
10 the intersection of Mack and Gray. This is the sketch
11 I made on February 12, 1992.

12 Q. Does that include the area of where the photograph was
13 taken?

14 A. Yes, sir.

15 I also have a little dot there
16 where the suspected blood was observed and show several
17 vacant lots and other -- and a party store at the
18 corner, southwest corner of Mack and Gray.

19 Q. When you say PLC lights, what are those?

20 A. Public Lighting Commission street lights.

21 Q. On that Proposed Exhibit Number 21 of that sketch, does
22 that include the public lights that you observed on
23 February 12th to be in that general area?

24 A. Yes, sir, they do. They are shown.

25 Q. Is that a reasonably fair and accurate sketch of the

1 lights, the drawing of the streets, the intersection of
2 Gray and Mack?

3 A. Yes, sir, it is.

4 Q. Lastly, showing you People's Proposed Exhibit Number 22
5 and ask if you can describe what that is?

6 A. Yes, sir.

7 This is a sketch showing different
8 streets in that area of Mack, between Alcongon (sp) and
9 Lenox, which is the center street showing several
10 streets north of Mack and several south, south to
11 Charlevoix.

12 Q. Is that a reasonably fair and accurate sketch of the
13 surrounding streets at the intersection of Mack and
14 Gray, sir?

15 A. Yes, sir.

16 A. Yes, sir, it is.

17 Q. Did you make that last sketch yourself?

18 A. Yes, I did. All three of them.

19 MR. GONZALES: Your Honor, no
20 further questions with respect to Proposed Exhibits 3
21 through 22.

22 People would move for their
23 admission and turn the witness over for voir dire.

24 THE COURT: Any objections?

25 MR. GILES: No objections, Your

1 Honor.

2 THE COURT: They will be received.

3 MR. GONZALES: All right.

4 BY MR. GONZALES:

5 Q. Can you describe for me using Exhibit Number 22 the
6 lighting that existed at 3960 Gray?

7 A. Okay.

8 The Public Lighting Commission
9 lights street lights. There was one to the north and
10 one to the south. Each one approximately a hundred
11 feet away. The area where the driveway was is fairly
12 dark. The only area coming from porch lights. The
13 scene itself was fairly dark in that area.

14 Q. Did you ever have an occasion to stand on the area in
15 front of the Special K Store sidewalk area there where
16 the general area, the corner of Mack and Gray and view
17 the scene of the front of 3960 Gray, including the
18 driveway area?

19 A. Yes, sir.

20 In February when I was back there
21 making the sketch, I observed the scene from that
22 location.

23 Q. Were you able to see the scene from that location?

24 A. Yes, you were.

25 Q. What is the the distance, would you indicate based on

1 your observations to be the distance between the corner
2 of 3960 -- excuse me -- the corner of Special K Party
3 Store on Gray and Mack to the driveway at 3960 Gray?

4 A. Approximately three hundred and seventy feet,
5 seventy-five feet.

6 Q. Was the body at the scene at the time of your arrival?

7 A. No, sir, it was not.

8 Q. Did you have occasion to do any search of the area for
9 any casings?

10 A. Yes. We checked the area for possible spent casings
11 and found none.

12 Q. When you say checked the area, does that include
13 yourself and your partner?

14 A. Yes, it was.

15 Q. And the areas were what?

16 A. The area around the driveway, streets, burm area.

17 Q. Was any blood located anywhere else other than that
18 area?

19 A. No, sir.

20 The only suspected blood we
21 observed was in the driveway.

22 Q. Any physical evidence placed on evidence other than the
23 gun shot residue kits?

24 A. No, sir.

25 Q. Thank you.

1 MR. GONZALES: No further questions
2 of this witness.

3 THE COURT: Any cross-examination?

4 MR. GILES: Yes, Your Honor.

5

6 CROSS-EXAMINATION

7

8 BY MR. GILES:

9 Q. Good morning, officer Richardson?

10 A. Good morning.

11 Q. You were not the person who actually took these photos
12 right?

13 A. No, I was not.

14 Q. It was your partner?

15 A. Yes.

16 Q. But you were there?

17 A. Yes.

18 Q. I'd like you to look at photo identified as Exhibit
19 Number 4, please. Can you tell us what that shows?

20 A. Okay.

21 This photo shows 3960 Gray. Also
22 the dwelling to the south of it. Shows the driveway on
23 the south side of it. Sidewalk, street in front of it

24 Q. Okay.

25 Now, you have already testified

1 that when you arrived on the scene the body had already
2 been removed, correct?

3 A. Correct.

4 Q. Were you informed of the location of the body?

5 A. We were told that it was at the driveway.

6 Q. Were you told where in the driveway?

7 A. Yes, where the blood was.

8 Q. And that's that the area between the sidewalk and the
9 street?

10 A. Right.

11 Q. Right at the street?

12 A. Right.

13 Q. Okay.

14 The snow mounds around the
15 driveway, at both edges, can you basically describe
16 them according to the picture in your recollection of
17 how tall they were?

18 A. At the curb, maximum maybe a foot. Back to the
19 sidewalk as you can see in the photographs here where
20 it appeared to have been shoveled up and moved up
21 around the sidewalk.

22 Q. Okay. So on the corners there the snow is piled up to
23 some degree?

24 A. Yes, sir.

25 Q. At least a foot near the street?

1 A. I would say maximum maybe a foot.

2 Q. Maximum a foot near the street and it goes up higher as
3 we get towards the sidewalk?

4 A. Right.

5 Q. Directly in front of the south, 3960, there were no
6 lights; no street light, no public lighting?

7 A. No.

8 Q. Okay.

9 There was no other type of post
10 lamp, lighting, whatever you want to call it?

11 A. Not that I recall, no, sir.

12 Q. Okay.

13 You testified in -- regarding
14 Exhibit Number 6, the photo of what we call suspect
15 blood, were blood samples taken?

16 A. No blood samples were taken, no, sir.

17 Q. So you don't know if blood that was found in the
18 driveway matched that of the deceased; do you?

19 A. No, sir, I don't.

20 Q. You didn't personally take the picutress that were
21 taken during the daytime?

22 A. No, sir.

23 Q. But you were there?

24 A. Right.

25 Q. Okay.

1 Can you tell us where this is
2 taken, People's Exhibit Number 12?

3 Can you tell us where this picture
4 was taken from?

5 A. This picture was taken from in front of the party store
6 facing slightly northeast.

7 Q. Okay.

8 When you say in front of the party
9 store, was he standing in front of the store, where
10 exactly was he standing?

11 A. It would be on the sidewalk in front of the --

12 Q. (Interposing) I'll give you also Proposed Exhibit
13 Number 11, which shows -- that's the party store that
14 you are speaking about, correct?

15 A. Right.

16 Q. Where in front of the party store?

17 A. General area of the doorway. Maybe slightly towards
18 the corner.

19 It was a large sidewalk on the east
20 side of the party store. It was big one on the north
21 side also, but this was taken probably around the
22 doorway; maybe slightly to the east.

23 Q. Okay.

24 And from where that picture was
25 taken, from the party store, can you see the crime

1 scene?

2 A. Yes, sir.

3 Q. You can see the crime scene?

4 A. Yes, sir.

5 Q. This is 3960?

6 A. Yes, sir.

7 You can see the vacant lot in
8 between the two buildings here. It would be right --
9 probably right behind me in this area here.

10 Q. This is you?

11 A. That's me walking across the street taking notes.

12 Q. Okay.

13 Can you point out where the body
14 was?

15 A. It would be the stain of suspected blood, you mean?

16 Q. Yes, where the suspected blood was?

17 A. Okay. It would be right at the curb, the driveway and
18 the curb.

19 It would -- it would have been
20 right at the curb by the driveway, roughly where I am
21 standing in this photograph. It would be right behind
22 me.

23 Q. Okay.

24 MR. GONZALES: What Exhibit Number
25 are you talking about?

1 THE WITNESS: People's Exhibit
2 Number 12.

3 MR. GONZALES: Thank you.

4 BY MR. GILES:

5 Q. Can you tell us -- this is showing you People's Exhibit
6 Number 13.

7 Can you tell us what that picture
8 is of, please?

9 A. Okay.

10 This picture was taken. It would
11 be at the east curb just slightly south of Mack on
12 Gray -- correction.

13 That would be the west curb of Gray
14 just south of Mack. Facing north; showing Gray. Also
15 showing the crime scene area.

16 Q. That picture is taken basically from the side of that
17 party store?

18 A. Right. Up the street at the curb.

19 Q. And this picture shows a person standing near the
20 street down Gray?

21 A. Again that was myself.

22 Q. That's yourself. Okay.

23 Were you standing in the vicinity
24 of the crime scene?

25 A. That would be pretty close to it, yes, sir.

1 Q. Pretty close to it?

2 A. Yes, sir.

3 Q. How close to it?

4 A. I don't recall.

5 Q. You were standing more so in the street?

6 A. I was standing in the street, yes, sir.

7 Q. Standing in the street. All right.

8 You are wearing dark clothing; is
9 that correct?

10 A. Correct.

11 Q. Approximately what time was this picture taken?

12 A. If you let me refer to my report, I'll give you the
13 exact time.

14 Q. Okay. Sure.

15 A. It was taken roughly 9:45 a.m.. 10 a.m. in that area.

16 Q. Can you -- why don't you look at that picture very
17 carefully.

18 Can you make out features in that
19 picture?

20 A. No, sir.

21 Q. Can you make out your head in that picture basically?

22 A. I know where it is at. I can see the body outline,
23 yes, sir.

24 Q. You can basically see the body outline?

25 A. Yes.

1 Q. Not too much more than that; is that a fair correct
2 statement?

3 A. That's a fair statement.

4 Q. That's a fair statement?

5 And this picture fairly represents
6 what was taken; what was there, correct?

7 A. Correct.

8 Q. Thank you.

9 MR. GILES: One second, Your Honor

10 THE COURT: Are you finished?

11 MR. GILES: I have a few more.

12 BY MR. GILES:

13 Q. I am going to ask you to look at People's Exhibit
14 Number 21, please.

15 This -- you made this sketch?

16 A. Yes, sir, I did.

17 Q. And this shows the general vicinity of Gray and Mack.
18 Especially Gray going down towards the crime scene; is
19 that correct?

20 A. Yes, it does.

21 Q. The only lighting near 3960 is identified in front of
22 the address of 3955; is that correct?

23 A. The light as shown across the street on the front lawn

24 Q. So that's a yard light?

25 A. Yard light.

1 Q. And it was operational that night?

2 A. I don't recall. I believe it was.

3 I think you can see it in the one
4 of the photographs as operational.

5 Q. Okay.

6 A. I think it is on.

7 Q. You also testified there was some additional porch
8 lights on?

9 A. Yes, sir.

10 Q. Porch light at 3960 that was not on; was it?

11 A. Not that I recall.

12 Q. Okay.

13 How long have you been an evidence
14 tech officer?

15 A. Six years.

16 Q. Six years.

17 Do you feel competent speaking
18 about lighting?

19 MR. GONZALES: I object, Judge.
20 Whether or not he feels competent is irrelevant.

21 THE COURT: I agree. Just ask the
22 questions, counsel.

23 MR. GILES: Okay.

24 BY MR. GILES:

25 Q. There were two, at least two PLC lights on Mack and

1 Gray; three according to your diagram there in Exhibit
2 Number 22; is that correct?

3 A. Correct.

4 Q. Okay.

5 The crime, the crime where the
6 killing took place at night; is that correct, according
7 to your information?

8 A. Correct.

9 Q. It was during the winter, approximately 8:30, '9
10 o'clock. Somewhere around there; is that correct?

11 A. I don't know the exact time.

12 Q. Okay. But it was definitely dark?

13 A. It was dark, yes, sir.

14 Q. And these PLC lights, to your knowledge, were they
15 operational?

16 A. The ones at Mack and Gray, are you referring to?

17 Q. Yes.

18 A. I have no idea. I don't recall.

19 Q. Okay.

20 Let's -- let's assume they were
21 operational. Would the lighting impair the vision of
22 person looking down towards 3960 Mack?

23 A. You are asking my opinion?

24 Q. Yes. I am asking your opinion.

25 A. I don't believe it would, no, sir.

1 Q. This lighting in this area but no lighting in this area
2 down there, you are saying in your opinion it wouldn't
3 impair?

4 A. I don't believe it would, no, sir.

5 Q. Okay. One second, please.

6 THE COURT: Yes. Hold on for
7 one second for me, too, please.

8
9 (A short break)

10 THE COURT: Okay. You can
11 continue, counsel.

12 MR. GILES: Thank you.

13 No further questions, Your Honor,
14 thank you.

15 THE COURT: Any additional
16 questions of this witness, counsel?

17 MR. GONZALES: For me, yes, Your
18 Honor, just a few.

19 REDIRECT EXAMINATION

20
21 BY MR. GONZALES:

22 Q. You indicated that there was a vacant lot.

23 Is there a vacant lot across the
24 street from 3960 Gray?

25 A. Yes, sir. Slightly to the north.

1 Q. Okay.

2 You indicated in cross-examination
3 on People's Exhibit Number 9, that this shows the area
4 across the street?

5 A. Yes, sir.

6 Q. Does that show anything about the lighting of the area
7 across the street?

8 A. Yes, sir, it does.

9 Q. What is that?

10 A. It shows a yard light in front of 3955. Also a porch
11 light in the house just to the north of it.

12 Q. Where would be the vacant lot in relation -- on that
13 photograph?

14 A. It would be to the north -- to the right of this
15 photograph.

16 Q. So you are indicating, this is the driveway where the
17 suspect blood was?

18 A. Yes, sir.

19 Q. Just on the other side of the street is a house where
20 the yard light that was on when you took this photo?

21 A. Yes, sir.

22 Q. Just across the street was a house with a porch light
23 on; is that right?

24 A. Yes, sir.

25 Q. All right.

1 And approximately in this area of
2 the photograph is the vacant lot?

3 A. Yes, sir.

4 Q. Okay. Thank you.

5 MR. GONZALES: No further
6 questions, Your Honor.

7 THE COURT: Any additional
8 questions?

9 MR. GILES: No additional
10 questions, Your Honor.

11 THE COURT: You can step down,
12 thank you.

13 MR. GONZALES: Thank you.

14 THE COURT: So do you have another
15 witness?

16 MR. GONZALES: I do, Judge. Andrew
17 Smith.

18 A N D R E W S M I T H

19
20 called as a witness by the People,
21 being duly sworn by the Court Clerk,
22 was examined and testified upon his
23 oath, as

24 follows:

25

DIRECT EXAMINATION

BY MR. GONZALES:

Q. State your name for the record, please?

A. Andrew Smith.

Q. How old are you, Mr. Smith?

A. Twenty.

Q. Mr. Smith, I'd like to recall your attention to the date of January 17th, 1992.

On that date, sir, did you have occasion to be in the area of the corner of Mack and Gray in the City of Detroit?

A. Yes, sir.

Q. What is located on the corner of Mack and Gray there?

A. The store.

Q. And do you know the name of that store?

A. Special K Party Store.

Q. On that date, Mr. Smith, did you also have occasion to know someone by the name of Carl Hubbard or Goff?

A. I know him by Goff.

Q. Okay.

And do you see the person in Court here today that you knew as Goff?

A. Yes.

Q. Could you please point and tell me who you are talking

1 about? What color pants he's wearing today?

2 A. Blue pants.

3 Q. Okay.

4 MR. GONZALES: Witness identifying
5 for the record, Your Honor, the defendant in this
6 matter. Mr. Carl Hubbard.

7 BY MR. GONZALES:

8 Q. Are you saying you the or did not know his real name?

9 A. I did not.

10 Q. Okay.

11 On that date in time, sir, did you
12 have occasion to observe the person you knew as Goff in
13 the area of Mack and Gray?

14 A. Yes.

15 Q. Okay.

16 Now, where were you travelling at
17 that time?

18 A. West on Mack.

19 Q. And for the record approximately what time of day or
20 night was this?

21 A. I can't remember the exact time.

22 Q. Okay. What is the closes you can say?

23 A. 8:89.

24 Q. Is this in the A.M or P.M.?

25 A. P.M..

1 Q. Were you alone or with anyone, Mr. Smith?

2 A. Alone.

3 Q. And when you say you were west on Mack, were you in a
4 car, walking or what?

5 A. Walking.

6 Q. And what direction were you headed towards?

7 A. Gray.

8 Q. And what street were you coming from?

9 A. Dickerson.

10 Q. And as you were walking on Gray, were you on the same
11 side of the street as the party store or the other side
12 of Gray; can you tell us?

13 A. The same side.

14 Q. And where were you going to?

15 A. To the store.

16 Q. And when you were in that area, how was it that you
17 first observed the person that you knew as Goft?

18 A. I was walking towards Gray.

19 But I wasn't at Gray yet and they
20 were coming from on Gray, down Gray across Mack.

21 Q. Okay. Was -- was Goft alone or with anyone?

22 A. He was with two other guys.

23 Q. Did you know who those other people were?

24 A. No.

25 Q. Had you ever seen those other people in your life?

1 A. No.

2 Q. Okay.

3 And can you describe where they
4 were at when you first saw them; where they were
5 standing at when you first saw them where they were at?

6 A. I don't understand the question.

7 Q. Okay.

8 Can you describe in relation to the
9 intersection there between Gray and Mack, where they
10 were at when you first saw them?

11 A. When I first saw them they were entering Mack coming
12 off Gray.

13 Q. Okay.

14 I am going to show you what has
15 already been admitted into evidence as Exhibit Number
16 21. A sketch of this area.

17 And it is my understanding that you
18 indicated that you were in the area of heading towards
19 the Special K Store.

20 Is that a yes or a no?

21 A. Yes.

22 Q. Okay.

23 And it is my understanding that you
24 were heading?

25 A. Okay. This direction in a westerly direction on this

1 street here to -- depicted on this sketch which is
2 Mack; is that correct?

3 A. Yes.

4 Q. Now, you were on the same side of the street or the
5 other side?

6 A. Same side.

7 Q. So you were over, approximately, this area?

8 A. Yes.

9 Q. And that's indicating the bottom right hand corner of
10 the People's Exhibit Number 21 -- excuse me -- Number
11 21.

12 As you head to that area, can you
13 point on this drawing and show me where it was that you
14 first saw the person you knew as Goff with these other
15 people?

16 A. About right here.

17 Q. So you are indicating an area just to the west of the
18 Special K Party in the area between the street or in
19 the street, between the street; and the store or in the
20 street; is that right?

21 A. In the street.

22 Q. Okay.

23 And what direction were they
24 headed; can you indicate?

25 A. North.

1 Q. And were they walking or with anyone?

2 A. It was just them three.

3 Q. Okay.

4 And were they in a car or were they
5 walking?

6 A. Walking.

7 Q. Can you just show me the directions with your finger on
8 the sketch you saw them go?

9 A. That way.

10 Q. Okay.

11 And where is it, for the record,
12 the witness took his finger and went up Gray in a
13 northerly direction.

14 Can you indicate where you last saw
15 them?

16 A. About right here.

17 Q. Okay.

18 A. Almost across Mack.

19 Q. You are indicating to the portion of where on the
20 sketch is listed as thirty-seven feet, for the record,
21 and that's the area that shows the end of the block of
22 Gray, like right in the middle of the street?

23 A. Yes.

24 Q. You saw them in the middle of the street?

25 A. Yes.

1 Q. Where did you go?

2 A. In the store.

3 Q. Okay.

4 Now, when you saw them pass, can
5 you recollect what Goft was wearing that date?

6 A. No.

7 Q. Okay.

8 Do you reconize what anyone of
9 those individuals were wearing?

10 A. Not that I can recall.

11 Q. Okay.

12 Did you then go into store?

13 A. Yes.

14 Q. And while you are in the store, did you hear anything
15 unusual?

16 A. After about three or four minutes, I heard some
17 gunshots.

18 Q. Approximately how many?

19 A. I can't remember.

20 Q. More than one or less or one?

21 A. I think it was more than one.

22 Q. Okay.

23 And based on that, what, if
24 anything, did you do?

25 A. Well, when I heard the shots, I was on my way out the

1 store.

2 When I heard the shots, I stayed in
3 the store -- after the shot I stayed in the store for
4 about another three or four minutes.

5 And then when I came out, I seen
6 the police down the street so I walked down there.

7 Q. Okay.

8 Now, at the point in time where you
9 pointed on this drawing number 21, in the area of where
10 you last saw Goff, with the other two individuals
11 heading northerly on Gray, did you ever see him again?

12 A. No.

13 Q. Did you go to the area where you saw the police cars?

14 A. Yes.

15 Q. Did you see anything unusual in that area?

16 A. I seen a body laying on the ground.

17 Q. Okay.

18 And where was that body at; can you
19 just generally describe?

20 A. What?

21 Q. Okay. Can you describe where the body was at when you
22 saw it?

23 A. Laying in the street by the curb close to the curb.

24 Q. Did you know whose house that was?

25 A. No.

1 Q. Okay.

2 Now, was that individual that you
3 saw laying on the ground one of the same individuals
4 you had just seen moments earlier with Gofft?

5 A. I couldn't tell.

6 Q. Okay.

7 Are you saying it was; or, are you
8 saying it wasn't; or are you saying you don't know?

9 A. I don't know.

10 Q. When you got out of the store on Mack and Gray, after
11 you heard the shots, you said you saw police cars?

12 A. I seen one.

13 Q. And where were they at?

14 A. Down there where the body was.

15 Q. Okay.

16 Did you ever talk to Gofft at all
17 that day?

18 A. No.

19 Q. Have you talked to him at all since?

20 A. No.

21 Q. Thank you.

22 MR. GONZALES: No further
23 questions.

24

25

CROSS-EXAMINATION

1

2 BY MR. GILES:

3 Q. Good morning, Mr. Smith?

4 A. Good morning.

5 Q. When you testified on direct examination that you saw

6 Mr. Hubbard and at least two other individuals walking

7 across Mack going down Gray; is that correct?

8 A. Yes.

9 Q. Okay.

10 Can you tell -- what time

11 approximately was this, sir?

12 A. I don't remember what time it was. It was nighttime,

13 eight, nine.

14 Q. Okay.

15 Do you recall having a conversation

16 with myself yesterday regarding your testimony outside

17 this courtroom?

18 A. I recall you asking me a question.

19 Q. You recall me asking you some questions?

20 A. One question.

21 Q. One question.

22 Do you recall me asking you how

23 much time it was you saw Mr. Hubbard and the people he

24 was with before you heard the shots?

25 A. Excuse me?

1 Q. Do you recall me asking you the question how much time
2 it was you saw Mr. Hubbard and the other two people he
3 was with before you heard the shots while you were in
4 the party store?

5 A. (No response)

6 Q. Do you recall me asking you that question?

7 A. How much time?

8 Q. How much time lapsed from the period you saw Mr.
9 Hubbard and the two people he was with, and when you
10 went into the party store and you heard those shots; do
11 you recall me asking you how much time lapsed?

12 A. I can't remember.

13 Q. Okay.

14 Do you recall telling me that when
15 you saw Mr. Hubbard --

16 MR. GONZALES: Your Honor, I object
17 to that.

18 MR. GILES: I am asking the
19 question. He can say no or yes.

20 MR. GONZALES: Well --

21 THE COURT: (Interposing) I didn't
22 hear the full question that he's asking.

23 Go ahead and ask the question.

24 MR. GILES: Thank you, Your Honor.

25 BY MR. GILES:

1 Q. Do you recall -- I lost my train of thought -- well,
2 let me ask you this.

3 Do you recall telling me that it
4 was at least an hour prior to you going into the store
5 and hearing the shots when you saw Mr. Hubbard?

6 A. Not that I can recall.

7 Q. You don't recall that?

8 A. No.

9 Q. Do you know an individual by the name of Curtis
10 Collins?

11 A. Yes.

12 Q. When you were walking up Mack going to the -- going to
13 the store, did you see Curtis Collins?

14 A. No.

15 Q. When you went into the store?

16 A. No.

17 Q. Did you see Curtis Collins?

18 A. No.

19 Q. When you first -- what was the first time you noticed
20 Mr. Hubbard, when he was in the street on Mack and
21 Gray?

22 A. Yes.

23 Q. You didn't see where he came from?

24 A. He came from -- he was walking north on Gray. He came
25 from south.

1 Q. Okay.

2 From the general area of the store
3 we're talking about?

4 A. Yes.

5 Q. After -- okay.

6 I believe I asked you this; but I
7 will ask you again.

8 When you went into the store, did
9 you see Curtis Collins?

10 A. No.

11 Q. Okay. When you came out of the store, did you see
12 Curtis Collins?

13 A. No.

14 Q. Did you have a conversation with Curtis Collins,
15 sometime later that evening?

16 A. No.

17 Q. You are familiar with the general area around the
18 Special K Party Store?

19 A. Yes.

20 Q. Is there a telephone out there?

21 A. Yes.

22 Q. And at any time, do you recall seeing Mr. Hubbard near
23 that telephone?

24 A. No.

25 Q. Well, did you see the people that he was with near the

1 telephone?

2 A. No.

3 Q. Okay. Thank you.

4 MR. GILES: No further questions,
5 Your Honor.

6 THE COURT: Anything else.

7 MR. GONZALES: Yes, Your Honor.

8 REDIRECT EXAMINATION

9

10 BY MR. GONZALES:

11 Q. Those two people you saw with Mr. Hubbard, with Goff,
12 did -- were either of those people Curtis Collins?

13 A. No.

14 Q. You knew that?

15 A. Yes.

16 Q. Okay.

17 You didn't recognize either of
18 those other two people as Curtis Collins; is that
19 correct?

20 A. No, I didn't.

21 Q. Did you ever talk to Curtis Collins on the phone about
22 this incident?

23 A. No.

24 Q. Was it at least an hour between the time you were in
25 the store that you heard the gunshots after having just

1 seen Gofit?

2 A. No.

3 Q. How long was it?

4 A. About three to four minutes.

5 Q. Thank you.

6 MR. GONZALES: Okay. No further
7 questions.

8 THE COURT: All right. Anything
9 else, Mr. Giles?

10 MR. GILES: No further questions,
11 Your Honor.

12 THE COURT: You can step down.

13 MR. GONZALES: Can I check the
14 hallway, Judge?

15 THE COURT: Yes.

16
17 You may proceed.

18 L U C I N K A G R O S S

19
20 called as a witness by the People,
21 being duly sworn by the Court Clerk,
22 was examined and testified upon her
23 oath, as

24 follows:

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DIRECT EXAMINATION

THE COURT: Have a seat and speak
loud and clear so that everyone in the courtroom can
hear you.

BY MR. GONZALES:

Q. Ma'am, please state your name for the record?

A. Lucinka Gross.

Q. Miss Gross, How old are you?

A. Forty-four.

Q. I'd like to call your attention to the date of January
17th, 1992.

On that date, ma'am, are you
familiar or were you familiar with the area of Mack and
Gray in the City of Detroit?

A. Yes.

Q. In fact, ma'am, did you reside in that general area?

A. Yes.

Q. On what particular street?

A. Gray.

Q. How far away did you reside, if you know, ma'am, from
the address of 3960 Gray?

A. 3960 Gray?

Q. 3960 Gray, yes.

A. I would imagine about a block.

1 Q. Okay.

2 And what was your address on that
3 date in time?

4 A. 4125.

5 Q. Gray?

6 A. Yes.

7 Q. Ma'am, I'd like to call your attention to the date of
8 January 17th, 1992.

9 On that date, ma'am, in the evening,
10 hours, did you have occasion to observe anything
11 unusual on your street?

12 A. Yes.

13 I was going to the store. And it
14 was cold and I was very covered up. And I thought that
15 it was garbage bags on the street but as I got close to
16 it, I could see it was a body.

17 Q. Okay.

18 Now, you said it was a body. Where
19 were you at when you first observed this?

20 A. In the street on Gray.

21 Q. Say that again?

22 A. In the street, walking in the street.

23 Q. Okay.

24 Now, when you say in the street,
25 were you in the middle of the street?

1 A. Yes.

2 Because a lot of snow and I was
3 walking in the middle of the street.

4 Q. Were you heading north or south on Gray?

5 A. I was towards Mack. So it would be north.

6 Q. So from -- I am going to show you People's Exhibit
7 Number 20 and ask if you can recognize this general
8 area as being the area of Gray?

9 A. Yes.

10 Q. Okay.

11 Ma'am, to the south here, on this
12 sketch is Mack. What direction were you heading,
13 towards Mack or away?

14 A. Towards Mack.

15 Q. You said you are walking in the center of the street?

16 A. Yes.

17 Q. And is your house then north on this sketch, 4125 Gray?

18 A. Yes.

19 Q. Okay.

20 Ma'am, when you were walking down
21 the center of the street, you said you saw this object
22 you later identified as a body?

23 A. Yes.

24 Q. Okay.

25 At the time that you first saw this

1 object, you identified as a body, had you seen anyone
2 in the general area where the body was?

3 A. No.

4 Q. Now, ma'am, had you heard any shots?

5 A. No.

6 I don't know why I didn't but my
7 daughters told me they had heard shots but I didn't.

8 Q. Okay.

9 And had you been in the street for
10 sometime before you saw this body or what?

11 A. No.

12 Where I saw the person was maybe
13 about two or three houses over from where I lived.

14 Q. You live on the same side of the street as that house
15 or driveway or the other side of the street?

16 A. The other side.

17 Q. So you were on the other side of the street on Gray,
18 about three or four houses away?

19 A. Yes.

20 Q. Is there a vacant lot on your side of the street?

21 A. Yes.

22 Q. And did you pass that vacant lot?

23 A. Yes.

24 Q. Okay.

25 Did you notice anyone at all as you

1 passed that area?

2 A. No.

3 Q. And when you got to the area of where the body was,
4 could you -- did you have an opportunity to observe the
5 general condition of the way the body was?

6 A. Like, I thought that -- it looked like a heap of trash
7 bags and when I got close by to see, it was a person.
8 They were laying on their back and I thought I saw
9 blood but when I realized it was blood and a person, I
10 stopped for a minute and someone said something that
11 lived there, the man asked me was he dead.

12 And I said I didn't know and I went
13 on to the store. And I asked them to call the police.

14 Q. Okay.

15 How close were you at the closes
16 pile you were to the body in terms of inches, feet or
17 whatever?

18 A. I don't know. Maybe three.

19 Q. Okay.

20 And did the person that was laying
21 there moving at all?

22 A. Not that I could see.

23 Q. How long were you in the general area of where the body
24 was?

25 A. Very short. When I realized what it was, it scared me

1 And I left. So it was a very short time.

2 Q. Thank you.

3 MR. GONZALES: No further questions
4 of this witness.

5 THE COURT: Any questions of this
6 witness.

7 MR. GILES: Yes, Your Honor.

8

9 CROSS-EXAMINATION

10

11 BY EUPLT:

12 Q. Miss Gross, good morning?

13 A. Good morning.

14 Q. You testified at the exam that you didn't hear any
15 shots, is that correct?

16 A. No, I didn't.

17 Q. But you said that your daughters heard some shots?

18 A. Yes.

19 Q. And at what point did your daughters tell you they
20 heard some shots?

21

22 was it before you left out of the house
23 or after?

24 A. When I came back and I was telling them what had
25 happened, they were saying that they had heard shots.

1 And when I can back from the store, police were already
2 on the scene. So everybody was there.

3 Q. So your daughters weren't with you went you were
4 walking down the street?

5 A. No.

6 Q. It is also your testimony on direct examination that
7 when you were walking down the street, you didn't see
8 anybody else in the street?

9 A. No.

10 Q. Okay.

11 And after you walked up to the
12 body, the only other person you saw was this person
13 standing on the porch of the house in front?

14 A. Yes.

15 Q. Okay.

16 You didn't -- did you see anybody
17 else going towards the body as you got to the store, as
18 you were going to the store?

19 A. No, I don't think -- if there was someone on the
20 street, I didn't see them.

21 Q. You know a person by the name of Curtis Collins?

22 A. Not that I know of.

23 Q. Also known as Tony Smith?

24 A. No.

25 Q. Also known as Kurt baby?

1 A. I know a person by that name.

2 Q. You know a person by the name of Kurt baby.

3 Q. Did you happen to see him that evening?

4 A. When I came out when it was very cold through that
5 time, and there was no one that I could see.

6 Q. Okay.

7 Do you know a person by the name of
8 Andrew Smith?

9 A. No.

10 Q. Okay. One second please.

11 You know approximately what time it
12 was when you came out?

13 A. Yes.

14 It was about 9:30 because I was
15 trying to catch the store before it closed.

16 Q. 9:30 P.M., correct?

17 A. Yes.

18 Q. Okay.

19 You said you were trying to catch
20 the store. Is this the Special K Party Store?

21 A. Yes.

22 Q. Thank you.

23 MR. GILES: No further questions,
24 Your Honor.

25 THE COURT: Any questions?

1 MR. GONZALES: Just one.

2 REDIRECT EXAMINATION

3

4 BY MR. GONZALES:

5 Q. Did you state you did or didn't know Andrew Smith?

6 A. Not by that name.

7 Q. Okay. Did you happened to see the witness that just
8 testified?

9 A. In the hallway.

10 Q. The young man?

11 A. Yes.

12 Q. Did you see him at all that night?

13 A. No.

14 Q. Okay.

15 No further questions.

16 THE COURT: Anything else.

17 MR. GILES: Nothing else, your

18 Honor.

19 THE COURT: You can step down.

20 Thank you.

21 MR. GONZALES: May we approach,

22 Judge, for a moment?

23 THE COURT: All right.

24 (A discussion was held at sidebar

25 off

1 the record.)

2 * * * *

3

4 THE COURT: Let's take a ten
5 minutes break.

6 THE DEPUTY: All rise. Court's in
7 recess.

8 (A short break)

9

10 * * * *

11

12 THE COURT: You want to read
13 something into the record?

14 MR. GONZALES: Yes, I do.

15 I had an opportunity to speak to
16 both -- to defense counsel regarding stipulation that
17 understand both he and defendant would be willing to
18 enter into.

19 And that's with respect to the
20 testimony of Sergeant Joan Kenny.

21 She testified at the preliminary
22 examination and she would testify in this matter, it's
23 my understanding, and identify three proposed exhibits
24 I'd like to have them marked at this time.

25 THE COURT: Okay.

1 MR. GONZALES: It's my
2 understanding that defense counsel would stipulate that
3 were Sergeant Joann Kenny to appear, she would testify
4 that she is employed with the Detroit Police Homicide
5 Section. And was so employed on the date of January
6 21, 1992.

7 And on that date, she had occasion
8 to conduct an interview interrogation and advisal of
9 constitutional rights with the person who she would
10 identify as the defendant in this matter, Carl Hubbard.

11 First of all, with respect to
12 proposed Exhibit Number 23, she would identify this as
13 being the Constitutional Rights Certificate of
14 Notification form that she employed at the initiation
15 of her conversation with Mr. Hubbard.

16 And that was on January 21, 1992,
17 at 1 P.M.. She would testify that she advised the
18 defendant of his constitutional rights. And that the
19 defendant, defendants rights were read to and explained
20 to him by Sergeant Kenny. And that he signed that
21 form, proposed Exhibit Number 23 in her presence, as
22 well as herself signing the form at 1:00 P.M..

23 He also initialed the five rights
24 as well as the paragraph where indeed he was willing to
25 give a statement.

1 Thereafter, Sergeant Kenny would
2 further testify that with respect to Propose Exhibit
3 Number 24, that at 1:05 in the P.M. she next had
4 occasion to fill out an interrogation record, a two
5 sided document with the responses of Mr. Hubbard
6 regarding his background information.

7 And that further thereafter she
8 would testify that on People's Proposed Exhibit Number
9 25, she would identify that as being the three page
10 statement that she obtained from Mr. Hubbard on January
11 21, 1992, at approximately 1:20 in the P.M.. At 1300
12 Beaubien.

13 It is my understanding that both
14 defendant and defense counsel would stipulate to that
15 testimony, as well as the introduction and reading into
16 the record by myself of People's Proposed Exhibit
17 Number 25 the statement.

18 That's my understanding, Your
19 Honor.

20 THE COURT: Is that correct,
21 counsel?

22 MR. GILES: Yes, that's correct,
23 Your Honor.

24 THE COURT: Have you had an
25 opportunity to talk to your client, Mr. Hubbard?

1 MR. GILES: Yes, Your Honor.

2 THE COURT: Mr. Hubbard, do you
3 agree with your attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. The Court
6 will accept that stipulation.

7 MR. GONZALES: At this time --

8 MR. GILES: All right.

9 MR. GONZALES: At this time, Your
10 Honor, I move to admit these proposed exhibits and read
11 into the record, Exhibit Number 25.

12 THE COURT: They will be received.
13 Go ahead and read it.

14 MR. GONZALES: Thank you.

15 Again, Exhibit Number 25 is a
16 statement of Mr. Hubbard on January 21st at 1:20 P.M.
17 at thirteen hundred Beaubien and by Sergeant Kenny.

18

19 Question: Mr. Hubbard, did you
20 understand your constitutional
21 rights?

22 Answer: Yes.

23 Question: Have I promised you
24 anything

25 or threatened you in any way?

1 Answer: No, you haven't.

2 Question: Mr. Hubbard, I need you

3 to

4 tell me everything you know about

5 the

6 death of Rodnell Penn that happened

7 Friday, January 17th, 1991, on Gray

8 Street.

9 Answer: I don't know anything

10 about

11 him getting killed until today.

12 Question: Do you know Rodnell

13 Penn?

14 Answer: Yes, I know him since the

15 eighties. Since 1986.

16 Question: When was the last time

17 you

18 saw Rodnell Penn?

19 Answer: The last time I seen

20 Rodnell

21 Penn was way back in the eighties.

22 And

23 since then I only saw his older

24 brother's name Walter Penn.

25 He was in prison when I saw him.

1 Question: Did you see Rodnell
2 Thursday
3 night, that would be January 16th,
4 1992?

5 Answer: No.

6 That's the first page, signed at
7 the bottom, Carl Hubbard.

8 Second page.

9 Question: Did you see Rodnell
10 Friday
11 night? That would be January 17th,
12 1992?

13 Answer: No.

14 Question: Do you know anything
15 about
16 a shooting that happened on Gray,
17 Friday, 18, 1992?

18 Answer: No.

19 MR. GONZALES: Were you on Gray
20 Street
21 Friday, January 17th, 1992?

22 Answer: No.

23 Question: Do you know anyone by
24 the
25 name of Bird?

1 Answer: Yes. I heard of him.

2 Question: Is he a friend of yours?

3 Answer: He used to be my friend a

4 long

5 time ago.

6 Question: Do you know what bird's

7 real

8 name is?

9 Answer: Yes.

10 His real name is Donald Peterson.

11 I

12 went to school with him.

13 Question: When was the last time

14 you

15 saw bird?

16 Answer: I haven't seen bird

17 since 1989.

18 Question: Did you have a case

19 against

20 you that Rodney Penn was supposed

21 to

22 testify at?

23 Answer: I didn't have a case

24 against

25 me. And Rodnell wasn't supposed to

1 testify against me.

2 Let me reread that.

3 "I didn't have a case against me.

4 And

5 Rodnell Penn wasn't supposed to

6 testify

7 against me."

8 Question: Did bird have a case

9 that

10 Rodnell Penn was supposed to

11 testify

12 against him?

13 Answer: No.

14 Question: Did you ever have --

15 excuse me -- let me reread that.

16 Question: Did you ever stay on

17 Floyd

18 Street (sp)" that's the bottom of

19 Page 2 going onto page three.

20 Answer: No. I stayed on Sparta,

21 that

22 is one block over from Floyd.

23 .

24 Question: Have you talked to, with

25 Rodnell over the phone in the last

1 couple of days?

2 Answer: No.

3 Question: Were you supposed to

4 meet

5 with Rodnell on Friday, 17, '92?

6 Answer: No.

7 Question: Did you hear about

8 anyone

9 getting killed over on Gray Street?

10 Answer: No.

11 Question: Do you know anybody that

12 lives on Gray Street?

13 Answer: No. I don't hang out that

14 way.

15 Question: Do you know where bird

16 lives?

17 Answer: No.

18 Question: Do you know where his

19 mother

20 lives?

21 Answer: No.

22 Question: Is there anything else

23 about

24 this incident that I should know?

25 Answer: No.

1 Question: Have you told me
2 everything

3 you know about this incident?

4 Answer: Yes.

5 Signed: Carl Hubbard.

6 And there are some additional
7 questions and answers.

8 Question: Carl, do you go by the
9 nickname Goft?

10 Answer: I used to go by the
11 nickname of

12 Goft a long time ago.

13 Question: Do all you have friends
14 and

15 family who know you by the nickname
16 of

17 Goft?

18 Answer: My mother don't like for
19 anyone

20 to call me Goft.

21 Signed: Carl Hubbard.

22 That's it, Judge.

23 THE COURT: Are there any other
24 stipulations that you'd like to place on the record?

25 MR. GONZALES: There are.

1 In addition to stipulations, Your
2 Honor, there are waivers.

3 First of all, with respect to the
4 waivers, it's my understanding both defendant and
5 defense counsel would enter into the following waivers
6 as being acumulative or not adding anything of
7 relevance or significance to either side of the case.

8 That being with respect to the
9 testimony of witness listed as Sergeant Robert
10 Michelek. Police Officer Kenneth Croupa (sp). Police
11 Officer Craig Turner. Police officer -- Police Officer
12 Craig Turner who would testify accumulative to that of
13 Police Officer Brian Carter who already testified.

14 MR. GILES: Craig Turner did
15 testify.

16 MR. GONZALES: I had crossed off
17 the wrong name on my list.

18 THE COURT: What is the correct
19 name you want for waiver purposes?

20 MR. GONZALES: Brian Carpenter
21 (sp)..

22 THE COURT: Okay. Thank you.

23 MR. GONZALES: His partner, Craig
24 Turner apparently testified yesterday and his partner
25 Brian Carter testimony would be cumulative today. As

1 well as police officers Richard Colenash (sp). Mr.
2 DiAnthony Wilcher (sp). Sergeant Benard Fair.
3 Attorney Ross Briggs (sp). Sergeant Elmer Harris. So
4 all of those with the correction of one being police
5 officer Turner -- excuse me -- police officer Carter,
6 we would move for their waiver.

7 MR. GILES: No objections, Your
8 Honor.

9 THE COURT: All right.

10 Again, have you had an opportunity
11 Mr. Hubbard, to talk to your attorney and do you agree
12 with having those witnesses being waived?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Okay.

15 Those witnesses will be waived.

16 Any others?

17 MR. GONZALES: Yes, Judge.

18 It is my understanding, Your Honor
19 that with respect to these following witnesses both
20 defendant and defendant's counsel would enter into both
21 a waiver and stipulation of the following testimony.

22 Your Honor, with respect to police
23 officer Martin Genter, he would testify as being
24 employed with the homicide section of the Detroit
25 Police Department. And that he had occasion to go to

1 the Wayne County Medical Examiner's Office.

2 And after the autopsy was performed
3 by Dr. Caoile. That he had occasion to place on
4 evidence tags 913299, 91300. And 913302. On January
5 22nd he had occasion the take those to the crime lab
6 and turn them over to the person of police officer Paul
7 Dragan for analysis.

8 And he would testify to the chain
9 of evidence, that being for those particular pieces of
10 items.

11 That would be the sum and substance
12 of the testimony with respect to police officer Martin
13 Genter, Your Honor.

14 MR. GILES: That's correct.

15 THE COURT: Again, Mr. Hubbard, do
16 you agree with your attorney?

17 THE DEFENDANT: Yes.

18 THE COURT: The Court will accept
19 that stipulation.

20 MR. GONZALES: Next, Judge, with
21 respect to Police Officer Paul Dragan.

22 It is my understanding that both
23 defendant and defense counsel would enter into the
24 following stipulation with respect to the testimony of
25 Paul Dragan. He would testify as being employed with

1 the Detroit Police Department assigned to the crime lab
2 section.

3 And that he's an expert in the area
4 of examination and analysis of firearms. And that he
5 would testify in accordance with his report, that being
6 lab number 279-92, 280-92.

7 He would testify that he received
8 those items of evidence from officer Ginter and that on
9 January 23rd, 1992, he had occasion to perform his
10 examination and classification of that fired evidence.

11 He would testify in accordance with
12 this report that on evidence tag 913299, he found one,
13 .38 caliber lead bullet, and one lead fragment. He
14 would testify further that on evidence tag 913300, he
15 obtained .38 caliber -- found one .38 caliber spent
16 lead bullet.

17 He would testify further that on
18 evidence tag 913302, he found one .38 caliber lead
19 bullet. In addition to that he would testify to also
20 having in his possession, evidence tag 913205, which he
21 received from police officer Martin Genter, which was
22 received from police officer Tracey Sewell, as being
23 the bullet that officer Sewell testified he recovered
24 at the time of his coming upon the body at the scene.

25 He would testify that within that

1 evidence envelope he found one .38 caliber spent lead
2 bullet, characteristic 8R, the results of his
3 examination were follows.

4 First, if he would, he examined,
5 and, succeeded to perform microscopic comparison of the
6 submitted fired evidence and attempted and determined
7 the make of the gun.

8 Results of his examination were
9 that the above evidence was examined and classified
10 microscopic compared evidence against evidence. It was
11 determined that all of the above submitted spent
12 bullets were fired from the same weapon.

13 The evidence was sent to the
14 property office.

15 The submitted bullets on evidence
16 tag 91 3299. 913300. 913302, were delivered to the
17 Lab, on 1-22 by police officer Genter. And that
18 probable make and type of weapon in his opinion, as an
19 expert in the area of fire arms examination, would be:
20 Number one, a Charter Arms.

21 Number two, Arding. (sp).

22 Number three. A Rolm, as the
23 possible make and type of weapon.

24 Further Police Officer Dragan would
25 testify, that he had occasion to examine evidence tag

13
1 91 3301, and found it to contain one, 25 automatic
2 spent full metal jacket bullet, class, 6, L, and that
3 he would testify as being the particular bullets that
4 was found by Dr. Caoile in the area of the brain that
5 he described as being the old bullet wound injury found
6 in the deceased that was subject to the cystification
7 that he described.

8 And that evidence was examined and
9 classified and sent to the property office.

10 And that probable make of weapon
11 was Ravon Arms.

12 That's my understanding of the sum
13 and substance of the stipulation with respect to the
14 expert testimony of Paul Tray (sp).

15 THE COURT: Is that your
16 understanding, Mr. Giles?

17 MR. GILES: Yes, Your Honor.

18 THE COURT: Again, Mr. Hubbard, do
19 you agree with your attorney?

20 THE DEFENDANT: Yes.

21 THE COURT: Okay.

22 MR. GONZALES: Next, Your Honor,
23 with respect to the testimony of Mr. Dannug. Mr.
24 Dannug would testify as being employed in the crime lab
25 of Detroit Police Department.

1 He's a civilian technician and he
2 would testify as a expert in the area of chemical
3 analysis of gunshot residue test.

4 He would testify that on January
5 21, 1992, at approximately 10:05 in the morning, he had
6 received from police officer Ginter, evidence tags
7 913201, 913202. 913303, 91 3304, and that 913201 was
8 taken -- was a gunshot residue test taken from the
9 person of Mr. Peter Baker that -- that evidence tag
10 913202 was a gunshot residue test taken from Mr. Basci
11 Dennis at 3960 Gray.

12 That evidence tag 913203 was
13 gunshot residue test taken from Mr. DiAnthony Wilcher
14 at 3960 Gray. And that evidence tag 91 3204 was a
15 gunshot residue test taken from Mr. John Trammel at
16 3960 Gray.

17 And that upon those residue tests,
18 he performed chemical analysis to determine the
19 presence of the submitted elements, antimony barium and
20 lead to determine whether or not the person had
21 recently fired a weapon.

22 And in his opinion with respect to
23 Mr. Peter Baker, a gunshot residue analysis kit
24 contained cotton swab labeled right palm, right back,
25 left palm, left back was submitted and analyzed for

1 gunshot residue, antimony barium and lead with the
2 results being, in his opinion, no significant amounts
3 of these elements were detected in the hands of him.
4 And that the test kits itself was destroyed in
5 analysis.

6 Next as to the gunshot residue
7 tests for Bascil Dennis, it contained cotton swabs,
8 label right palm, right back, left palm, left back was
9 submitted and analyzed for gunshot residue elements,
10 antimony barium and lead with the results, in his
11 opinion, as an expert, being that no significant
12 amounts of these element were detected in the hand-swab
13 taken.

14 That the test kit was destroyed in
15 analysis.

16 Next as to the residue test kit for
17 Mr. DiAnthony Wilcher, we found it to contain cotton
18 swabs of the right palm, right back left palm, left
19 back.

20 And that was submitted and the
21 elements of antimony, barium and lead. And that the
22 results in his opinion, as an expert, being no
23 significant amounts of these elements were detected in
24 the hand-swabs and that again was destroyed in
25 analysis.

1 Lastly, as to the gunshot residue
2 analysis kit for Mr. John Trammel.

3 They found it to contain residue
4 tests for right palm, right back, left palm, left back
5 And that was submitted and analysed for the elements
6 antimony, barium, lead.

7 And in his opinion, as an expert in
8 the area of gunshot residue analysis, no significant
9 amounts of these elements were detected in the
10 hand-swabs. And it again was destroyed in analysis.

11 That's my understanding of the sum
12 and substance of that stipulation.

13 MR. GILES: That's true.

14 THE COURT: Thank you, Mr. Giles.

15 Again, Mr. Hubbard, do you agree
16 with your attorney?

17 THE DEFENDANT: Yes, I do.

18 MR. GONZALES: I believe that's it,
19 Your Honor.

20 I believe we will have one more
21 stipulation tomorrow morning regarding testimony of
22 witness Glen Paige.

23 And other than that, Your Honor, I
24 intend to call only two other witnesses. Jenny Holcomb
25 (sp) and Christopher Harris. With the possibility of

1 recalling Mr. Collins.

2 THE COURT: Fine. 9:00.

3 Please be on time.

4 MR. GILES: I'll be here, Your
5 Honor.

6 THE COURT: Not 9:30.

7 I will see you at 9:00, tomorrow,
8 gentlemen.

9
10 THE DEPUTY: All rise for the
11 Court.

12 MR. GONZALES: Thank you.

13 MR. GILES: Thank you, Your Honor.

14 THE COURT: I would like to start
15 on time, tomorrow, gentlemen.

16 THE DEPUTY: Court's adjourned.

17 (Proceedings adjourned.)

18

19 * * * * *

20

21

22

23

24

25

R E P O R T E R ' S C E R T I F I C A T E

STATE OF MICHIGAN)
COUNTY OF WAYNE)

I, MARY E. SKINNER, CSR-0031, Official Court
Reporter in and for the Third Judicial Circuit, Wayne
County, State of Michigan, do hereby certify that the
foregoing pages 1 through 76, inclusive, was reduced
to typewritten form by means of Computer-Assisted
Transcription and comprise a true and accurate transcript
of the proceedings taken in the above-entitled matter,
on Tuesday, September 1, 1992.


MARY E. SKINNER, CSR-0031

Dated: This 19th day of March 1992.